

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID B. DURAN,
Plaintiff,
v.
OMAR MANDUJO, et al.,
Defendants.

Case No. 15-cv-2745 DMS (WVG)

**ORDER (1) ADOPTING
MAGISTRATE JUDGE'S
REPORT AND
RECOMMENDATION AND (2)
GRANTING MOTION TO
DISMISS FOR FAILURE TO
STATE A CLAIM**

[ECF NOS. 94, 102]

On December 7, 2015, Plaintiff David B. Duran, a state prisoner proceeding *pro se* and *in forma pauperis*, filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. On May 19, 2017, Plaintiff filed his Fourth Amended Complaint. On June 2, 2017, Defendants Omar Mandujano, Alfredo Hernandez, Luis Hernandez, and John Seaman filed a Motion to Dismiss for Failure to State a Claim. On August 22, 2017, Magistrate Judge William V. Gallo issued a Report and Recommendation (“R&R”), recommending that the Court grant the motion. Plaintiff filed objections to the R&R. Defendants did not file a reply.

This Court, having reviewed *de novo* the Magistrate Judge’s R&R and the objections thereto, adopts the Magistrate Judge’s recommendation in full and **GRANTS** the Motion to Dismiss for Failure to State a Claim. The Court finds no

1 basis for a certificate of appealability. The Clerk of Court shall enter judgment
2 accordingly.

3 **IT IS SO ORDERED.**

4 Dated: October 11, 2017



5 Hon. Dana M. Sabraw
6 United States District Judge

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